

### **INTERVIEW SUMMARY**

A telephonic interview was held on October 5, 2005 between Applicant's representative, Lawrence S. Graham, and Examiner Qian Janice Li. The subject discussed was the basis of the pending Communication's statement that the claims presented in the Amendment of March 18, 2005 were directed to a different invention than that constructively elected by original presentation for prosecution on the merits. In particular, the Communication stated that the original claims required that the recited mammalian placenta be treated to remove residual blood, and that the newly-presented claims contained no such limitation. The Examiner stated that the main concern was that the claims be limited to a tissue matrix comprising placental cells from a placenta that had been treated to remove residual blood. Applicant's representative agreed to amend claim 24, the sole pending independent claim, such that the recited mammalian placenta is treated to remove residual blood. The Examiner stated that this amendment would be sufficient, and that cancellation of the pending claims was not necessary.

### **REMARKS**

Claims 24-43 are currently pending in the application. Claim 24 is amended. Support for the amendment to claim 24 is found in the specification at least at page 20, lines 1-2 and 24-25, and originally-filed claim 1. No new matter is introduced by the amendment to claim 24.

### **Attorney Docket Number**

The Applicant notes that the Communication cover sheet indicates that the Attorney Docket Number is 011307. Please note that the Attorney Docket Number for this application is now 9516-101-999. The Communication itself correctly references Attorney Docket Number 9516-101-999.

### **Communication**

The Communication of June 16, 2005 states that claims 24-43, which replaced canceled claims 1-12, 22 and 23, had been withdrawn from consideration as directed to an invention different than the invention constructively elected. The Communication stated that the pending claims were directed to a different invention than the originally-filed claims because (1) the originally-filed claims required that the recited placenta be treated to remove residual blood, and the pending claims do not; and (2) the originally-filed claims were directed to a matrix seeded with embryonic stem cells, and the pending claims were not limited to embryonic stem cells.

In the Interview of October 5, 2005, the Examiner recommended amendment of independent claim 24 to recite that the mammalian placenta has been treated to remove residual blood. Applicants have amended claim 24 to state that the placenta "has been treated to remove residual blood." As noted above, the Examiner stated in the Interview that such an amendment would be sufficient to respond to the Communication. Applicant respectfully submits that claims 24-43 may now be examined.

Applicant respectfully submits, however, that the differences between the originally-filed claims and pending claims are not sufficient to warrant restriction, as the Communication states. For example, in application no. 10/004,942 ("the '942 application") by the same inventor, the originally-filed claims, directed to a method of collecting stem cells from a mammalian placenta, recited that the placenta was "exsanguinated." The claims in that application were amended to make clear that the recited placenta was "bloodless"; however, that amendment did not warrant a restriction. Thus, the presence or absence of

blood in the placenta recited in the pending claims should not be the basis for restriction. Moreover, the originally-filed claims in the '942 application recited collection of an "embryonic-like stem cell." These claims were later amended to "placental stem cell," and claims were added directed to the collection of CD34+ stem cells. The newly-recited stem cells in the amended claims of the '942 application, again, did not warrant a restriction. As such, in the present application, the recitation in the pending claims of "stem cell" rather than "embryonic stem cell" as in the originally-filed claims, should not warrant restriction. As these two differences were the only differences between the original and pending claims stated in the pending Communication, pending claims 24-43 claims should be deemed to be directed to the same invention as originally-filed claims 1-12, 22 and 23.

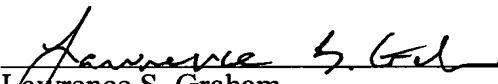
### **CONCLUSION**

Applicant respectfully requests that the above remarks and accompanying documents be entered in the present application file. An early allowance of the present application is respectfully requested. No fee, other than an extension-of-time fee, is believed due for this Amendment. However, if any fee is deemed to be due, please charge such fee to Jones Day Deposit Account No. 503013.

Respectfully submitted,

Date: October 17, 2005

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